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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,593	04/01/2004	David A. Gerken	GERKEN0401	3135
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MICHAEL BLAINE BROOKS, P.C.			EXAMINER	
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SIMI VALLEY, CA 93062-1630				
			ART UNIT	PAPER NUMBER
			2155	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/817,593

Applicant(s)

GERKEN, DAVID A.

Examiner

DAVID Y. ENG

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/15/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 8 of claim 1, there is no antecedent basis for "the first visitor".

In line 9 of claim 1, there is no antecedent basis for "the Internet Protocol address of the first visitor". There is no step recited for receiving the Internet Protocol address of the first visitor from the first visitor so that the determination of step c can be made. Step b merely recites receiving advertisement request and not IP address of the first visitor from the first visitor.

In line 4 of claim 16, the term "an acquiring entity" is vague and indefinite. It is not clear what it is or what the entity acquires.

Further with respect to the identifying step of claim 16, it is not seen how the acquiring entity as recited is able to identify a plurality of the at least one Internet user. Note that a web page request from a Internet user contains his IP address only and not his attributes. Therefore, an acquiring entity is unable to identify the requester's attributes.

Scope of claim 16 is not clear. The method steps as recited are for identifying an IP address whose corresponding attributes match the targeting attribute of a current advertising campaign and not for selectively procuring online advertising space from a web publisher as call for in the preamble.

With respect to lines 6-7 of claim 24, it is not clear what "Internet Protocol address-to-user attribute vectors" is.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballard (USP 6,182,050).

See claim 5 of Ballard. Ballard teaches:

Claims 16, 24

A method for selectively procuring online advertising space from a web publisher hosting at least one web page contemporaneously requested by at least one Internet user, the method comprising the steps of:

(a) identifying, by an acquiring entity, a plurality of attributes of the at least one Internet user comprising an Internet Protocol address and a first attribute (See claim 5 in Ballard. The step of sending evidences that the request includes end user data. The processing step evidences that the end user data includes advertisement identifiers (attributes).);

(b) comparing (see the processing step in claim 5 of Ballard, the processing step recites comparing attributes of end user with targeting attributes of advertising campaign) a targeting attribute of at least one current advertising campaign to the first attribute of the plurality of attributes of the at least one Internet user for a match; and

(c) retrieving the Internet Protocol address of each of the at least one Internet user having a matched first attribute (see “after the step of processing—“ in lines 9-10 of column 16).

The only difference is that Ballard does not state explicitly that the method of claim 5 is for procuring online advertisement space from a web publisher hosting at least one web page. As set forth in the Section 112, 2nd paragraph Rejection above, the method steps as recited by Applicant do not result in any procuring online advertising space. Further, since Ballard meets the limitations recited in the claim combination of the rejected claims, the system of Ballard also is able to facilitate online advertising space procurement.

Claims 17, 18, 19, 21, 27

The “wherein clauses” merely consist of non-functional descriptive material.

Claim 20, 22, 23, 25, 26,

Notifying the web publisher is an inherent step because it is the web of the web publisher which the user is visiting to see the advertisement.

Allowable Subject Matter


Claims 1-15 will be given favorable consideration if step d of claim 1 is replaced by the limitations recited in steps b and c of claim 16 and the Section 112 2nd paragraph Rejection is overcome.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID Y. ENG whose telephone number is 571-272-3984. The examiner can normally be reached on M-F from 8AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SALEH NAJJAR, can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


DAVID Y. ENG
PRIMARY EXAMINER